

1989 FEB 22 AM 8:35

HOUSE OF REPRESENTATIVES

I certify that the attached is a true and
correct copy of HJR 50, which
was filed of record on FEB 9 1989
and referred to the committee on:

Appropriations

Betty Munsey

Chief Clerk of the House

By Guy S. Lee

H J.R. No. 50

A JOINT RESOLUTION

1 proposing a constitutional amendment to control the authority of
2 the courts of this state to require the state or a local government
3 to increase the level of funding for the judicial branch.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article V of the Texas Constitution is amended by
6 adding Section 1b to read as follows:

7 Sec. 1b. (a) A court of this state that finds that an
8 operation of the judicial branch is not funded at a level the court
9 considers appropriate may not require a governmental officer or
10 other entity, including the legislature or the commissioners court
11 of a county, to take any action that has the effect of increasing
12 the level of funding available for the operation, if the
13 governmental officer or other entity responsible for funding the
14 operation has made a good faith effort to provide adequate funding.

15 (b) A governmental officer or other entity is considered to
16 have made a good faith effort to provide adequate funding for an
17 operation of the judicial branch if it examines the competing
18 interests in need of funding by the officer or entity and, based on
19 economic and other germane factors, establishes a level of funding
20 for those interests. The fact that a governmental officer or
21 entity does not appropriate to an operation the full amount of
22 money requested or the fact that the governmental officer or entity
23 reduces from one year to the next the amount of appropriated money
24 or does not increase the appropriated amount in proportion to any

1 increase in the work performed as part of an operation is
2 insufficient evidence to establish that the governmental officer or
3 entity acted without good faith.

4 (c) The prohibition established by this section applies to
5 the funding of all aspects of the judicial branch operations,
6 including:

7 (1) the funding of the courts and judicial agencies,
8 including a juvenile board and any other board or commission of
9 which a majority of the members are judges; and

10 (2) the provision of facilities and supplies for the
11 judicial branch, the furnishing and maintenance of those
12 facilities, and the payment of salaries and expenses of judges and
13 judicial officers and personnel.

14 SECTION 2. This proposed amendment shall be submitted to the
15 voters at an election to be held on November 7, 1989. The ballot
16 shall be printed to provide for voting for or against the
17 proposition: "The constitutional amendment to control the
18 authority of the courts of this state to require the state or a
19 local government to increase the level of funding for the judicial
20 branch."

HOUSE COMMITTEE REPORT

1st. Printing

By Shea

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COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

5-4-89

(date)

We, your COMMITTEE ON APPROPRIATIONS,

to whom was referred H.J.R. 50 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

☒ do pass, without amendment.

☐ do pass, with amendment(s).

☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

An author's fiscal statement was requested. ☐ yes ☒ no

A criminal justice policy impact statement was prepared. ☐ yes ☒ no

A water development policy impact statement was requested. ☐ yes ☒ no

☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ☐ Local, ☐ Consent, or ☐ Resolutions Calendar.

This measure ☐ proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Rudd, Ch.	<input checked="" type="checkbox"/>			
Williamson, V.C.	<input checked="" type="checkbox"/>			
Cavazos	<input checked="" type="checkbox"/>			
Carter	<input checked="" type="checkbox"/>			
Colbert			<input checked="" type="checkbox"/>	
Collazo	<input checked="" type="checkbox"/>			
Connelly	<input checked="" type="checkbox"/>			
Danburg	<input checked="" type="checkbox"/>			
Denton	<input checked="" type="checkbox"/>			
Earley	<input checked="" type="checkbox"/>			
Evans	<input checked="" type="checkbox"/>			
Garcia	<input checked="" type="checkbox"/>			
Harris, C.	<input checked="" type="checkbox"/>			
Hollowell	<input checked="" type="checkbox"/>			
Lewis, R.			<input checked="" type="checkbox"/>	
Madla	<input checked="" type="checkbox"/>			
Martinez	<input checked="" type="checkbox"/>			
McKinney				<input checked="" type="checkbox"/>
Moreno, A.				<input checked="" type="checkbox"/>
Perry	<input checked="" type="checkbox"/>			
Tallas	<input checked="" type="checkbox"/>			
Vowell				<input checked="" type="checkbox"/>
Watkins	<input checked="" type="checkbox"/>			

Total

18

aye

0

nay

2

present, not voting

3

absent

CHAIRMAN

COMMITTEE COORDINATOR

BILL ANALYSIS

H.J.R. 50
By: Shea

Committee on
Appropriations

BACKGROUND

In June, 1988, the Supreme Court issued an opinion which stated that district judges' actions presume validity and are subject to question by the commissioners courts only upon proof that the judiciary's actions are extravagant, arbitrary, or unwarranted.

Given this opinion, actions by units of the judicial branch can increase the level of funding which they receive above the level specified by the legislative unit and the unit of local government. Traditionally, the legislative branch has written the laws and appropriated the funds necessary to run government functions.

PURPOSE

The constitutional amendment proposed by this resolution would prohibit the judiciary from requiring units of the legislative and executive branches and units of local government to increase the funding level of a unit of the judicial branch, providing good faith was shown when the judicial branch's level of funding was established.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Amends Article V of the Texas Constitution by adding Section 1b:

1b. (a) Prohibits a court from requiring any entity from taking action which has the effect of increasing the funding level of what the court may consider an inappropriately funded operation. This is based on the premise that a good faith effort to provide adequate funding has been made by a governmental officer or entity.

1b. (b) Defines "good faith" as having examined the competing interests in need of funding and, based on relevant factors, established a funding level for those interests. Establishes further clarifications to avoid charges of lack of good faith.

1b. (c) Defines areas covered by this prohibition, which include:

1) courts and judicial agencies, including a board where the majority of the members are judges; and

2) facilities and supplies of the judicial branch and salaries and expenses of judicial personnel.

SECTION 2

This proposed amendment would be submitted to the voters in an election held November 7, 1989.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not delegate rulemaking authority to a state officer, agency, department, or institution.

SUMMARY OF COMMITTEE ACTION

The measure was considered in a public hearing and laid on the table subject to the call of the chair on April 17, 1989.

The measure was considered in a public hearing on 5/1/89. Testifying on the measure were: Lee Jackson, Regina Hanson, Clarence McDaniel, John Bayless, and William Ellison. The chair laid the bill on the table subject to the call of the chair.

The measure was considered in a public hearing on 5/4/89. On this day the committee voted to report the measure back to the full house with the favorable recommendation that it do pass and be printed on a record vote of 18 ayes, 0 nays, 2 present and not voting and 3 absent.

4/18/89 jah

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 14, 1989

TO: Honorable Jim D. Rudd, Chairman
Committee on Appropriations
House of Representatives
Austin, Texas

In Re: House Joint
Resolution No. 50
By: Shea

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 50 (proposing a constitutional amendment to control the authority of the courts of this state to require the state or a local government to increase the level of funding for the judicial branch) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The resolution proposes a constitutional amendment which, if adopted, would prohibit units of the judicial branch from requiring units of the legislative and executive branches and units of local government to increase the level of funding for a unit of the judicial branch as long as the level of funding was established in good faith.

The proposed amendment would be submitted to the voters on November 7, 1989.

The cost to the State of the publication of the resolution is estimated to be \$60,000.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Secretary of State;
LBB Staff: JO, JWH, AL, KVO, CKM

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to control the authority of the courts of this state to require the state or a local government to increase the level of funding for the judicial branch.

FEB 9 1989

1. Filed with the Chief Clerk.

FEB 20 1989

2. Read first time and referred to Committee on

AppropriationsMAY 4 19893. Reported ☒ favorably ~~(as amended)~~
~~(as substituted)~~ and sent to Printer at5:30 pmMAY 5 1989

4. Printed and distributed at

7:43 amMAY 8 1989

5. Sent to Committee on Calendars at

3:40 pm

6. Read second time (amended) and (finally) passed to Third Reading by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

7. Motion to reconsider and table the vote by which H.J.R. _____ was ordered engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

9. Caption ordered amended to conform to body of resolution.

10. Motion to reconsider and table the vote by which H.J.R. _____ was finally adopted prevailed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

11. Ordered Engrossed at _____

12. Engrossed.

13. Returned to Chief Clerk at _____

14. Sent to the Senate.

Chief Clerk of the House

15. Received from the House

16. Read, referred to Committee on _____

17. Reported favorably

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by

(a viva voce vote.)

(_____ yeas, _____ nays.)

21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

22. Read second time

passed to third reading by:
(a viva voce vote.)

(_____ yeas, _____ nays.)

_____ 23. Caption ordered amended to conform to body of bill.

_____ 24. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 25. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 26. Returned to the House.

_____ 27. Received from the Senate (with amendments.)
(as substituted.)

_____ 28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 29. Conference Committee Ordered.

_____ 30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 31. Ordered Enrolled at _____